

Exhibit 4

United States of America ex rel. Ven-A-Care of the Florida Keys, Inc., et al.
v. Dey, Inc., et al., Civil Action No. 05-11084-PBS

**Exhibit to the August 28, 2009 Declaration of Sarah L. Reid
In Support of Defendants' Common Opposition to Plaintiffs'
Motion for Partial Summary Judgment**

Lincoln, NE

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

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IN RE: PHARMACEUTICAL INDUSTRY)
AVERAGE WHOLESALE PRICE LITIGATION) MDL No. 1456
-----) Civil Action

THIS DOCUMENT RELATES TO:) No. 01-12257-PBS
United States of America, ex. rel.) Hon. Patti Saris
Ven-a-Care of the Florida Keys,)
Inc., v. Dey, Inc., et. al., Civil)
Action No. 05-11084-PBS; and United)
States of America, ex. rel.) December 2, 2008
Ven-a-Care of the Florida Keys,) 8:57 a.m.
Inc., v. Boehringer Ingelheim)
Corp. et. al., Civil Action)
No. 07-10248-PBS.) VOLUME I

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Deposition of THE NEBRASKA DEPT. OF HEALTH AND HUMAN
SERVICES by GARY CHELOHA, taken by Defendants, pursuant
to Notice, held at the Cornhusker Hotel, Lincoln, Nebraska,
before Shana W. Spencer, a Certified Shorthand Reporter
and Notary Public of the State of Nebraska.

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1 the extra cost of home IV.

2 And what my question is: Is did Nevada
3 -- Nebraska Medicaid treat home infusion or home
4 IV therapy and drugs dispensed through home IV
5 different than it did other drugs?

6 MR. DUNNING: I'm going to object to
7 form. Is there a time frame you're talking
8 about? 1988 or a different time frame?

9 Q. (BY MS. CITERA) I'm really asking
10 ever, but if you want me to break it down -- if
11 the witness needs me to break it down, I
12 certainly can.

13 A. When -- and I'll respond to the
14 question. When the point-of-sale system was
15 implemented with First Health in 1995, I found
16 directions from the then Medicaid pharmacy
17 consultant, Max Ward, to First Health to -- for
18 IV therapy compounding, which was priced
19 manually, to use AWP or to allow a higher than
20 AWP minus pricing, I believe, up to AWP for the
21 ingredient costs. So at that time, which was
22 April of '95 until sometime after I started in

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1 1996, in which I changed that, there was
2 different consideration given to the compounding
3 of the home IV therapy products.

4 Q. And after you changed it?

5 A. Subjected the ingredients to the same
6 EAC or MAC or -- well, I don't know if there were
7 any federal upper limits on injectables, but to
8 use that same pricing for the ingredients as in
9 any other prescription.

10 Q. Was there ever a compounding fee paid
11 separate?

12 A. Not that I recall, no.

13 Q. Was there a dispensing fee paid that
14 was higher than the dispensing fee for, you know,
15 the pills or other drugs like that?

16 A. At one time, I allowed payment of two
17 dispensing fees if there were at least two
18 ingredients.

19 Q. So two dispensing fees might be paid if
20 there were two ingredients?

21 A. That's correct. For --

22 Q. Do you know what time frame that was?